

MELINDA HAAG (CABN 132612)  
United States Attorney

MIRANDA KANE (CABN 150630)  
Chief, Criminal Division

S. WAQAR HASIB (CABN 234818)  
Assistant United States Attorney  
450 Golden Gate Ave., Box 36055  
San Francisco, California 94102  
Telephone: (415) 436-7200  
Fax: (415) 436-7234  
E-Mail: waqar.hasib@usdoj.gov

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
ELSA FLORIVET DIAZ-REYES,  
  
Defendant.

No. 01-0423-JSW

JOINT STIPULATION AND ~~PROPOSED~~  
ORDER TO CONTINUE TRIAL SETTING  
HEARING

The parties jointly stipulate and request an order from this Court continuing the trial setting hearing in the above-referenced matter, currently scheduled for February 17, 2011, until April 14, 2011. As grounds therefor, and as described in further detail below, the parties advise that the defendant has recently received several CD-ROMS containing wiretap audio that had not previously been turned over, due to an unintentional oversight. As such, the defendant requires additional time to review this new discovery and evaluate whether to proceed to trial or negotiate a settlement with the government.

As the Court will recall from prior status memorandums, this is a multi-defendant case in which the defendant was a fugitive for several years, before she was apprehended on or about

1 May 4, 2010, in the Southern District of Texas, as she crossed into the United States from  
2 Mexico. At the last status conference in this matter, held on December 2, 2010, the government  
3 advised that it had produced voluminous discovery, including over 30,000 pages of transcripts,  
4 investigative reports, and other documents, and 25 CD-ROMS containing wiretap audio and  
5 other electronic files. However, on December 13, 2010, counsel for the defendant advised that in  
6 fact he had received only 16 of the 25 CD-ROMS, and that 9 appeared to be missing.  
7 Subsequently, the government conducted an extensive review of its files, and found not only the  
8 9 CD-ROMS described by the defendant, but an additional 10 CD-ROMS also containing  
9 wiretap audio files that had not previously been turned over. On February 2, 2011, the  
10 government turned over all but one of these 19 CD-ROMS.<sup>1</sup>

11 In light of this new discovery, the parties agree that the defendant needs additional time to  
12 evaluate whether to proceed to trial or negotiate a settlement with the government. Accordingly,  
13 the parties jointly ask the Court to continue the trial setting hearing in this matter, currently  
14 scheduled for February 17, 2011, to April 14, 2011. This will provide the defendant with a  
15 meaningful opportunity to review the new discovery. In the interim, the government has  
16 prepared a draft plea agreement and will provide it to counsel for the defendant by the close of  
17 business today, February 14, 2011, so that the parties can discuss potentially resolving this  
18 matter, if the defendant chooses not to proceed to trial.

19 In the event that this Court grants the attached proposed order, the parties intend to be  
20 prepared on April 14, 2011, to either set dates for trial and pre-trial motions, or advise the Court

21 ///

22 ///

23 ///

24 ///

---

25  
26 <sup>1</sup>The one remaining CD-ROM that has not yet been turned over bears the Bates stamp  
27 number 500028, and appears to be permanently damaged and unreadable. Accordingly, the  
28 government is attempting to locate the original wiretap disk. Once the original is located, the  
government will request a temporary unsealing order from this Court so that a copy can be made  
and provided to the defendant.

1 that the parties have reached an agreement to resolve this matter.

2 DATED: February 14, 2011

Respectfully submitted,

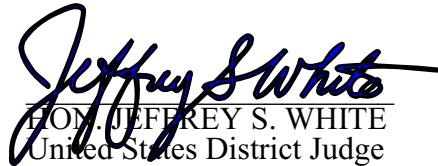
3 MELINDA HAAG  
4 United States Attorney

5 /s/ Kenneth Wine  
6 KENNETH WINE  
Counsel for Elsa Florivet DIAZ-Reyes

/s/ S. Waqar Hasib  
S. WAQAR HASIB  
Assistant United States Attorney

7  
8  
9  
10 SO ORDERED.

11 DATED: 2/14/2011

12   
HON. JEFFREY S. WHITE  
United States District Judge